

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

In RE:	Case No. 15-14204
Kimberly V. Jackson Samuel T. Jackson  Debtors	Chapter 13  Hon. Jessica E. Price Smith  Motion to Modify Chapter 13 Plan

Now come Debtors, by and through counsel, and hereby petition the Court to allow them to modify their Chapter 13 plan.

As grounds, counsel would state that the plan has been amended to address the issues raised by the Chapter 13 Trustee in his Objection to Confirmation.

Wherefore, Debtors pray this Court permit them to modify their Chapter 13 plan.

Date: October 2, 2015

/s/ William C Behrens

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Attorneys for Debtors

## CERTIFICATE OF SERVICE

The undersigned certifies that October 2, 2015, a copy of the foregoing Motion to Modify, Notice of Motion and Amended Chapter 13 Plan were filed electronically with the Clerk of the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system ("ECF"). Parties may access this filing through the Court's system.

US Trustee's Office at [Trustee@usdoj.gov](mailto:Trustee@usdoj.gov)

Kerri N. Bruckner on behalf of Creditor Bank of America, NA at [NOHBK@lsrlaw.com](mailto:NOHBK@lsrlaw.com)

Craig Shopneck, Standing Chapter 13 Trustee at [cshopneck13@ecf.epiqsystems.com](mailto:cshopneck13@ecf.epiqsystems.com)

And regular US Mail to

Acs/Navient c/o Acs 501 Bleeker Street Utica, NY 13501	Elgin Furniture 5217 Broadway Avenue Cleveland, OH 44127	Salt Lake City, UT 84115
Argosy University 1400 Penn Avenue Pittsburgh, PA 15222	First Federal Credit Inc. 24700 Chagrin Blvd #205 Beachwood, OH 44122	Rise 4150 International Suite 300 Fort Worth, TX 76109
AUSA Marlon Primes US Attorney's Office - BK Div 801 West Superior Avenue Cleveland, OH 44113	IRS c/o Bankruptcy Dept. PO Box 7346 Philadelphia, PA 19101	RITA ATTN: Legal Dept PO Box 470537 Broadview Heights, OH 44147
Bank of America ATTN: Bankruptcy Dept. 5401 North Beach Street FWTX 35 Fort Worth, TX 76137	Manley Deas Kochalski PO Box 165028 Columbus, OH 43216	Secretary of HUD Dept of Housing & Urban Development ATTN: C&L Service/Morris-Griffin 2488 East 81st Street, #700 Tulsa, OK 74137
Chagrin Highlands Dental 22901 Millcreek Blvd., #140 Beachwood, OH 44122	MNDG. dba Precision Door 9545 Midwest Avenue, Suite D Cleveland, OH 44125	Silver Cloud Financial, Inc. 635 East Highway 20 C Upper Lake, CA 95485
City of Euclid c/o Weltman Weinberg & Reis 323 West Lakeside Ave #200 Cleveland, OH 44113	Municollofam 3348 Ridge Road Lansing, IL 60438	The Illuminating Company ATTN: Bankruptcy Dept. 6896 Miller Road, #204 Brecksville, OH 44141
Cleveland Clinic Hospital ATTN: Bankruptcy Dept 9500 Euclid Blvd. Cleveland, OH 44195	National Credit Adjusters ATTN: Bankruptcy 327 West 4th PO Box 3023 Hutchinson, KS 67504	Tidewater Motor Credit 6520 Indian River Rd Virginia Beach, VA 23464
Dept Of Education/Neln 121 S 13th St Lincoln, NE 68508	Portfolio Recovery Ass 120 Corporate Blvd Ste 1 Norfolk, VA 23502	Univofphx Dba University Of Phoenix 4615 E. Elwood St. Phoenix, AZ 85040
	Prestige Financial Svc 1420 S 500 W	

/s/ William C. Behrens

William C. Behrens #0093031

Attorney for Debtors

The Dann Law Firm Co., LPA

**UNITED STATES BANKRUPTCY COURT FOR THE  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION (CLEVELAND)**

<b>In Re:</b>	)	
<b>Kimberly V. Jackson</b>	)	<b>Chapter 13 Case No.: 15-14204</b>
<b>Samuel T. Jackson</b>	)	
	)	<b>Judge</b>
	)	<input type="checkbox"/> <b>Original Chapter 13 Plan</b>
<b>Debtor(s).</b>	)	<input checked="" type="checkbox"/> <b>Modified Chapter 13 Plan, dated October 2, 2015</b>

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**NOTICE OF SPECIAL PROVISIONS (Check One)**

- This plan DOES NOT include any provision deviating from the uniform plan in effect at the time of the filing of this case.
- This plan DOES contain special provisions that must be and are set forth in paragraph 11 below.

**NOTICE OF DISCHARGE ELIGIBILITY**

The Debtor is eligible for discharge unless otherwise indicated below:

- Debtor is NOT eligible for discharge under 11 U.S.C §1328(f).
- Joint Debtor is NOT eligible for discharge under 11 U.S.C §1328(f).

**ATTENTION CREDITORS AND PARTIES IN INTEREST**

This plan sets forth how the Debtor or Debtors ("Debtor") propose to pay claims. You should read this plan carefully and discuss it with your attorney. Anyone who wishes to oppose any provision of this plan must file a timely written objection with the court. This plan may be confirmed and become binding without further notice or hearing unless a timely written objection is filed. Creditors must file a proof of claim with the court in order to receive distributions under this plan.

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**1. PLAN PAYMENTS**

A. The Debtor shall make monthly payments to the Chapter 13 Trustee ("Trustee") in the amount of \$ 2,300.00 per month ("Plan Payment") for at least the duration of the applicable commitment period, unless all allowed claims are paid in full in a shorter period of time.

B. (Check One)

- The applicable commitment period is 36 months.
- The applicable commitment period is 60 months.

C. Unless the court orders otherwise, the plan will not be considered complete until either (i) all allowed claims are paid in full, or (ii) the plan has run for at least the applicable commitment period and at least the amount specified in paragraph 7 has been paid to unsecured creditors.

D. Trustee may increase the Plan Payment during the term of the plan as necessary to reflect increases, if any, in any conduit payments paid by the Trustee.

**2. DISTRIBUTIONS**

A. After confirmation of this plan, funds available for distribution will be paid monthly by the Trustee in the following order: (i) Trustee's authorized percentage fee and/or administrative expenses; (ii) attorney fees as allowed under applicable rules and guidelines; (iii) conduit payments as provided for in paragraph 3(C); (iv) monthly payments as provided for in paragraph 5(C); (v) monthly payments as provided for in paragraphs 3(A), 3(B), 4(A), 4(B) and 9; (vi) monthly payments as provided for in paragraph 6; and (vii) general unsecured claims.

**B.** If the Trustee has received insufficient funds from the Debtor to make the conduit payment, the Trustee may accumulate funds until sufficient funds are available for distribution of a full monthly payment. The Trustee may distribute amounts different from the monthly payments specified in the plan if the Trustee determines such deviation is appropriate or reasonably necessary for the administration of the plan.

**C.** Unless a claim objection is sustained, a motion to value collateral or to avoid a lien is granted, or the court orders otherwise, distributions on account of claims in paragraphs 3(A), 3(C), 4(A), 5, 6, 7 and 9 will be based upon the classification and amount stated in each claim holder's proof of claim rather than any classification or amount stated in this plan. Conversely, distributions on account of claims in paragraphs 3(B), 4(B) and 4(C) will be based upon the classification and amount stated in the plan rather than the classification and amount stated in the claim holder's proof of claim. Unless otherwise set or mandated by statute, interest on all secured personal property claims provided for in this plan shall be paid pursuant to paragraph 4(D).

### 3. CLAIMS SECURED BY REAL PROPERTY

#### A. Mortgage Arrearages and Real Estate Tax Arrearages (Paid per the Proof of Claim)

Trustee shall pay the monthly payment amount to allowed claims for mortgage arrearages and real estate tax arrearages. Note: If the Trustee will not be making the continuing mortgage payments, the Debtor is responsible for paying all post-petition mortgage payments that ordinarily come due beginning with the first payment due after the filing of the case.

<u>Creditor</u>	<u>Property Address</u>	<u>Estimated Arrearage Claim</u>	<u>Monthly Payment on Arrearage Claim (Paid by Trustee)</u>
<b>Bank of America</b>	<b>3 bedroom Residence at 1803 Pinehurst, Euclid. Value derived from Land Appraisement filed in state foreclosure case</b>	<b>25,000.00</b>	<b>568.18</b>

#### B. Other Real Estate Claims (Paid per the Plan)

Trustee shall pay the monthly payment amount to creditors up to the amount and interest rate as specified below. The portion of any allowed claim that exceeds the amount to be paid through the plan shall be treated as an unsecured claim. Unless the court orders otherwise, upon confirmation, the amount, interest rate and monthly payment specified below will be binding under 11 U.S.C §1327.

<u>Creditor</u>	<u>Property Address</u>	<u>Amount to be Paid Through the Plan</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
<b>City of Euclid</b>		<b>6,331.16</b>	<b>0.00%</b>	<b>105.52</b>
<b>IRS</b>	<b>2014 Personal Income Tax</b>	<b>2,410.00</b>	<b>0.00%</b>	<b>40.17</b>
<b>RITA</b>		<b>4,648.42</b>	<b>0.00%</b>	<b>77.47</b>
<b>Secretary of HUD</b>	<b>3 bedroom Residence at 1803 Pinehurst, Euclid. Value derived from Land Appraisement filed in state foreclosure case</b>	<b>5,046.63</b>	<b>0.00%</b>	<b>84.11</b>

#### C. Conduit Payments

Trustee shall pay the regular monthly mortgage payments beginning with the first payment due after the filing of the case (or the first payment due after the filing of a modified plan if the modified plan proposes to change the treatment of a mortgage from "non-conduit" to "conduit"). Unless real estate taxes and insurance are included in the mortgage payments to be paid by the Trustee pursuant to the Plan, the Debtor shall remain responsible for paying those obligations as they become due. Note: If the Trustee is making the continuing monthly mortgage payments, the mortgage creditor must also be listed in paragraph 3(A) above.

<u>Creditor</u>	<u>Property Address</u>	<u>Monthly Payment (Paid by Trustee)</u>
<b>Bank of America</b>	<b>3 bedroom Residence at 1803 Pinehurst, Euclid. Value derived from Land Appraisement filed in state foreclosure case</b>	<b>899.00</b>

#### 4. CLAIMS SECURED BY PERSONAL PROPERTY

##### A. Secured Claims (Paid per the Proof of Claim)

Claims specified below are debts secured by a purchase money security interest in a vehicle acquired for the personal use of the Debtor for which the debt was incurred within 910 days of filing the bankruptcy petition, or, if the collateral for the debt is any other thing of value, the debt was incurred within one year of filing. Trustee shall pay the following claims, with interest per paragraph 4(D), in equal monthly payments as specified below.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Monthly Payment (Paid by Trustee)</u>
<b>Prestige Financial Svc</b>	<b>2011 Nissan Juke 4 door limited with over 60,000 miles</b>	<b>399.56</b>

##### B. Other Secured Claims (Paid per the Plan)

Claims specified below are debts secured by personal property not provided for in paragraph 4(A) above. Trustee shall pay the allowed claims up to the secured amount, with interest per paragraph 4(D), in equal monthly payments as specified below. The portion of any allowed claim that exceeds the secured amount will be treated as an unsecured claim. Unless the court orders otherwise, upon confirmation, the secured amount and monthly payment specified below will be binding under 11 U.S.C. §1327.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Secured Amount</u>	<u>Monthly Payment (Paid by Trustee)</u>
<b>-NONE-</b>			

##### C. Pre-confirmation Adequate Protection payments (Paid per the Plan)

Trustee shall pay the monthly payment amount to creditors for pre-confirmation adequate protection as specified below.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Monthly Payment (Paid by Trustee)</u>
<b>-NONE-</b>		

##### D. Interest

The interest rate to be paid on all secured personal property claims provided for in this plan shall be the prime rate plus a risk factor of 2.0%. The applicable prime rate shall be fixed for the life of this plan at the U.S. prime rate shown in the Wall Street Journal for Money Rates as of the date of the entry of the confirmation order. Only through separate order may a party-in-interest obtain court approval to apply a different interest rate. This provision shall not alter interest rates set or mandated by statute.

#### 5. DOMESTIC SUPPORT OBLIGATIONS (Paid per the Proof of Claim)

A. Debtor  does  does not have domestic support obligations under 11 U.S.C. §101(14A).

Trustee shall pay under 11 U.S.C. §507(a)(1) on a pro-rata basis the allowed arrearage claims for domestic support obligations. Debtor shall pay all post-petition domestic support obligations as those payments ordinarily come due.

B. Specify the holder(s) of any claims for domestic support obligations under 11 U.S.C. §1302(d) unless the holder is a minor. If the holder of a claim is a minor, the name and address of the minor holder shall be disclosed to the Trustee in a private document contemporaneously with the filing of this plan in compliance with 11 U.S.C. §112.

<u>Holder Name</u>	<u>Address</u>
<b>-NONE-</b>	

C. Trustee shall pay the monthly payment amount to creditors for domestic support obligation arrearages as specified below. Debtor shall pay the holder(s) of non-arrearage claims for domestic support obligations as those payments ordinarily come due unless otherwise specified in paragraph 11 – Special Provisions.

<u>Creditor</u>	<u>Address</u>	<u>Monthly Payment on Arrearage Claim (Paid by Trustee)</u>
<b>-NONE-</b>		

## 6. OTHER PRIORITY CLAIMS (Paid per the Proof of Claim)

Trustee shall pay the monthly payment amount to creditors for allowed unsecured priority claims as specified below.

<u>Creditor</u>	<u>Monthly Payment</u> <u>(Paid by Trustee)</u>
<b>-NONE-</b>	

## 7. GENERAL UNSECURED CLAIMS

Debtor estimates the total of the non-priority unsecured debt to be \$ **18,326.86**. Trustee will pay to creditors with allowed non-priority unsecured claims a pro-rata share of **7,896.68** or **43** %, whichever is greater. Trustee is authorized to increase the amount paid to unsecured creditors in order to comply with paragraph 1 of this plan.

## 8. PROPERTY TO BE SURRENDERED

A. Debtor surrenders the property described below and the creditor may file a claim for the deficiency, which will be treated as a non-priority unsecured claim. Any unsecured deficiency claim must be filed by the bar date for claims or allowed by separate order of the court.

<u>Creditor</u>	<u>Property Description</u>
<b>-NONE-</b>	

## 9. EXECUTORY CONTRACT AND UNEXPIRED LEASES (Pay per the Proof of Claim)

All executory contracts and unexpired leases are rejected except the following, which are assumed. Trustee shall pay the monthly payment amount to allowed claims for executory contract arrearages and unexpired lease arrearages as specified below. Debtor shall pay all post-petition payments that ordinarily come due.

<u>Creditor</u>	<u>Property Description</u>	<u>Estimated Arrearage Claim</u>	<u>Monthly Payment on Arrearage Claim</u> <u>(Paid by Trustee)</u>
<b>-NONE-</b>			

## 10. OTHER PLAN PROVISIONS

A. Property of the estate shall vest in the Debtor  upon confirmation.  upon discharge, dismissal or completion. If the Debtor has not made a designation, property of the estate shall vest in the Debtor upon confirmation. Unless otherwise ordered, the Debtor shall remain in possession of all property of the estate during the pendency of this case. All property in which the Debtor retains possession shall be insured by the Debtor. Trustee shall have no responsibility to insure assets and shall have no liability for damage or loss relating to property which is in the possession and control of the Debtor.

B. Notwithstanding the automatic stay, creditors and lessors provided for in paragraphs 3(A), 3(C), and 9 of this plan may continue to mail customary notices or coupons to the Debtor.

C. Trustee shall pay any post-petition claim filed and allowed under §1305(a)(1).

D. The following co-debtor claims will be paid by the co-debtor outside the plan:

<u>Creditor</u>	<u>Property Description</u>
<b>-NONE-</b>	

## 11. SPECIAL PROVISIONS

This plan shall include the provisions set forth in the boxed area below. **Note: The provisions set forth below will not be effective unless there is a check in the second *notice box* preceding paragraph 1 of this plan.** Further, these provisions should not contain a restatement of the Bankruptcy Code, Federal Rules of Bankruptcy Procedures, Local Bankruptcy Rules or case law.

**Debtor Wife's student loans with US Department of Education, Navient Solutions are in deferrment until late 2016 and into 2017. Debtor asks that the Trustee no pay these claims.**

**Debtors anticipate reopening their Chapter 7 Bankruptcy (#13-17999) and filing an adversary proceeding against AFNI (PO #12-1) for violations of the discharge injunction and for filing a time barred proof of claim.**

The minimum duration of this plan will be equal to the applicable commitment period, which is 60.

/s/ Kimberly V. Jackson

**Kimberly V. Jackson**

DEBTOR

/s/ Samuel T. Jackson

**Samuel T. Jackson**

DEBTOR

Date: October 2, 2015

/s/ William C. Behrens

**William C. Behrens 0093031**

ATTORNEY FOR DEBTOR